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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,173	04/11/2001	Jeffrey Jonathan Spurgat	11748/16	1523

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EXAMINER	
CHOUDHURY, AZIZUL Q	
ART UNIT	PAPER NUMBER
2145	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/833,173	SPURGAT ET AL.	
	Examiner	Art Unit	
	AZIZUL CHOUDHURY	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 April 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

This office action is in response to the correspondence received on February 21, 2008.

Claim Objections

Claim 4 is remains objected to because of the following informalities: The term "(New)" is present within the term peripheral. This appears to be a typographical error. Appropriate corrections are required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al (US Pat No: 6,697,944) in view of Wiser et al (US Pat No: 6, 868,403), hereafter referred to as Jones and Wiser, respectively.

1. With regards to claim 1, Jones teaches through Wiser a secure architecture for preventing copying of digital content by way of a computing platform, the secure architecture comprising: a secure computing platform for receiving and storing encrypted or encoded digital content from the Internet and from a remote source of digital content as well as storing local encrypted or encoded data, and

processing said encrypted or encoded digital data, said computing platform including a host processor and a peripheral bus, said computing platform configured to run audio or video playback application software for passing said encrypted or encoded digital data to said peripheral bus *(Jones' design features a pc (Figure 1 and column 6, line 51 – column 7, line 4, Jones) and provides for trust establishments prior to allowing for the connection between the playback device and the pc from being established (column 4, lines 15-20, Jones) and also provides for unauthorized software not having access to the secure data (audio files, etc) (column 13, lines 26-40, Jones). Devices (architectures) with security software are secure devices/architectures)*; a playback device configured to be connected to said computing platform for receiving encrypted or encoded digital content from said computing platform by way of said peripheral bus, said playback device including a separate processor, a peripheral bus interface *(Figure 5 and column 9, lines 33-53, Jones)* for receiving said encrypted or encoded digital content from said peripheral bus in said computing platform and decrypting or decoding said encrypting or encoded digital content, said playback device also including a memory device for storing decoding or decryption software *(The playback device/peripheral has means for decrypting encrypted data (column 4, lines 8-12 and Figure 5, element 86, Jones))*, said peripheral interface coupled to said peripheral bus for receiving said encrypted and encoded digital signals from said peripheral bus *(Figure 5, element 68, Jones)*, said playback device configured to decrypt or decode said encrypted or encoded

digital data and generate a decoded or decrypted output signal for playback *(column 4, lines 8-12 and Figure 5, elements 82, 88, 92 and 94, Jones)*, said playback device configured so that computing platform can not access said decrypted or decoded digital content when said playback device is connected to said computing platform.

While Jones' design teaches the use of digital content for providing music, Jones does not explicitly cite the computing platform being restricted from accessing decrypted or decoded digital content when the playback device is connected to it.

In the same field of endeavor, Wiser teaches a media player that connects to a host (column 3, lines 39-52, Wiser). The design features a media player (equivalent to the claimed playback device) with decryption means for purchased music. Wiser teaches how the purchased music can only be decrypted and played back on the specific media player and no other device (column 3, lines 39-52, Wiser). By having digital content only readable by a specific device, the seller of the digital content ensures copyright protections are not violated. It therefore would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Jones with those of Wiser to secure online music to avoid copyright infringements (see column 3, lines 2-11, Wiser).

2. With regards to claim 2, Jones teaches through Wiser the secure architecture, wherein said computing platform includes a network interface for receiving digital data from an external network (column 7, lines 38-40, Jones).

3. With regards to claim 3, Jones teaches through Wiser the secure architecture, wherein said peripheral bus is a USB bus (column 9, lines 37-53, Jones).

4. With regards to claim 4, Jones teaches through Wiser the secure architecture, wherein said peripheral bus is a PCI bus (column 9, lines 37-53, Jones).

5. With regards to claim 5, Jones teaches through Wiser the secure architecture, wherein said peripheral bus is a Fire Wire bus (Jones' design allows for the use of buses, it would have been obvious to have used a FireWire bus; column 9, lines 37-53, Jones).

6. With regards to claim 6, Jones teaches through Wiser the secure architecture further including one or more user input devices (Figure 1, elements 40 and 42, Jones).

7. With regards to claim 7, Jones teaches through Wiser the secure architecture, wherein said computing architecture includes one or more local persistent storage devices (Figure 1, elements 29 and 60, Jones).

8. With regards to claim 8, Jones teaches through Wiser a secure hardware architecture for preventing copying of digital content by way of a computing platform, the secure architecture comprising: a computing platform for receiving and storing encrypted or encoded digital content from the Internet as well as storing local encrypted or encoded data, and processing said encrypted or encoded digital data, said computing platform including a host processor and a peripheral bus, said computing platform configured to run audio or video playback application software for passing said encrypted or encoded digital data to said peripheral bus, said computing platform configured so that said peripheral bus is not-accessible by said audio or video playback software *(Jones' design features a pc (Figure 1 and column 6, line 51 – column 7, line 4, Jones) and provides for trust establishments prior to allowing for the connection between the playback device and the pc from being established (column 4, lines 15-20, Jones) and also provides for unauthorized software not having access to the secure data (audio files, etc) (column 13, lines 26-40, Jones). Devices (architectures) with security software are secure devices/architectures)*; a playback device configured to be connected to said computing platform for receiving encrypted or encoded digital content from said computing platform, said playback device including a separate processor, a peripheral bus interface *(Figure 5 and column 9, lines 33-53, Jones)*, for receiving said encrypted or encoded digital signals from said peripheral bus and decrypting or decoding said

encrypting or encoded data signals, said playback device also including a memory device for storing decoding or decryption software (*The playback device/peripheral has means for decrypting encrypted data (column 4, lines 8-12 and Figure 5, element 86, Jones). It is also inherent that such a device has memory*), said peripheral interface coupled to said peripheral bus for receiving said encrypted and encoded digital signals from said peripheral bus (Figure 5, element 68, Jones), said playback device configured to decrypt or decode said encrypted or encoded digital data and generate a decoded or decrypted analog output signal for playback by, wherein said playback device is configured to create a list of decrypted or decoded digital content stored on said playback device *(column 4, lines 8-12 and Figure 5, elements 82, 88, 92 and 94, Jones and see column 10, lines 7-13, Wiser for the teachings of a list of available decrypted content).*

9. With regards to claim 9, Jones teaches through Wiser, the secure architecture, wherein said playback device is further configured to enable editing of said list *(Wiser teaches the organizing of play lists (equivalent to the claimed editing of list); see column 10, lines 7-13, Wiser).*

10. The obviousness to combine motivation applied to claim 1 is applicable to claims 2-9.

Response to Remarks

The amendment received on February 21, 2008 has been carefully examined but is not deemed fully persuasive. In lieu of the claim amendments, the 112-type rejection issued in the previous office action has been withdrawn. However, the claim objections continue to stand. In addition, the Birrell art has been replaced with the Wiser art due to the latest claim amendments. The following are the examiner's response to the applicant's arguments.

The first point of contention addressed by the applicant involves the newly claimed "secure architecture". The applicant contends that the claimed invention teaches a secure hardware architecture and Jones does not. The examiner disagrees with this assertion. Any hardware requires software to run it. Hence if hardware performs "secure operations", it is guided by software. Jones' design features a pc (Figure 1 and column 6, line 51 – column 7, line 4, Jones) and provides for trust establishments prior to allowing for the connection between the playback device and the pc from being established (column 4, lines 15-20, Jones) and also provides for unauthorized software not having access to the secure data (audio files, etc) (column 13, lines 26-40, Jones). Devices (architectures) with security software are secure devices/architectures.

As a further note, the newly claimed "secure architecture" is within the preamble of the claim language. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but,

instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

The second point of contention involves the newly claimed feature of the "playback device configured so that computing platform cannot access said decrypted or decoded content when said playback device is connected to said computing platform." In lieu of this latest claim amendment, the Birrell art has been withdrawn and a new search has yielded the Wiser prior art. Wiser teaches Wiser teaches how the purchased music can only be decrypted and played back on the specific media player (playback device) and no other device (column 3, lines 39-52, Wiser).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AZIZUL CHOUDHURY whose telephone number is (571)272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. C./
Examiner, Art Unit 2145

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145